

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1287

By: Lawson

COMMITTEE SUBSTITUTE

An Act relating to child care; amending 10 O.S. 2011, Section 406, as last amended by Section 2, Chapter 73, O.S.L. 2018 (10 O.S. Supp. 2018, Section 406), which relates to investigations; requiring Department of Human Services to complete investigation within forty-five days; providing exceptions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 2011, Section 406, as last amended by Section 2, Chapter 73, O.S.L. 2018 (10 O.S. Supp. 2018, Section 406), is amended to read as follows:

Section 406. A. The Department of Human Services shall have authority at any reasonable time to investigate and examine the conditions of any child care facility in which a licensee or applicant hereunder receives and maintains children, and shall have authority at any time to require the facility to provide information pertaining to children in its care.

1 B. 1. The State Department of Health may visit any licensee or
2 applicant at the request of the Department to advise on matters
3 affecting the health of children and to inspect the sanitation of
4 the buildings used for their care.

5 2. The State Fire Marshal may visit any licensee or applicant
6 at the request of the Department to advise on matters affecting the
7 safety of children and to inspect the condition of the buildings
8 used for their care.

9 C. 1. Upon receipt of a complaint against any child care
10 facility alleging a violation of the provisions of the Oklahoma
11 Child Care Facilities Licensing Act, or any licensing standard
12 promulgated by the Department, the Department shall conduct a full
13 investigation. The Department shall complete the investigation
14 within forty-five (45) days unless the complaint involves alleged
15 child abuse or neglect, law enforcement, child welfare or any other
16 extenuating circumstances as determined by the Department. If upon
17 investigation, it is determined that there are reasonable grounds to
18 believe that a facility is in violation of the Oklahoma Child Care
19 Facilities Licensing Act or of any standard or rule promulgated
20 pursuant thereto, the Department shall:

- 21 a. document the complaint,
- 22 b. provide the complaint allegations in writing to the
- 23 facility involved and, upon written request by the
- 24

child care facility, provide a summary of the facts used to evaluate the completed complaint, and

c. document the facility's plan for correcting any substantiated violations.

2. If the Department determines there has been a violation and the violation has a direct impact on the health, safety or well-being of one or more of the children cared for by the facility, the Department shall notify the facility and require correction of the violation.

3. The Department shall notify the facility that failure to correct the confirmed violation can result in the revocation of the license, the denial of an application for a license, the issuance of an emergency order or the filing of an injunction pursuant to the provisions of Section 409 of this title.

4. If the facility refuses to correct a violation or fails to complete the plan of correction, the Department may issue an emergency order, revoke the license, or deny the application for a license. Nothing in this section or Section 407 of this title shall be construed as preventing the Department from denying an application, revoking a license, or issuing an emergency order for a single violation of this act, or the rules of the Department as provided in Section 404 of this title.

D. Upon the completion of the investigation of a complaint against any child care facility alleging a violation of the

1 provisions of the Oklahoma Child Care Facilities Licensing Act or
2 any licensing standard promulgated thereto by the Department, the
3 Department shall clearly designate its findings on the first page of
4 the report of the investigation. The findings shall state whether
5 the complaint was substantiated or unsubstantiated.

6 E. Information obtained by the Department or Oklahoma Child
7 Care Services concerning a report of a violation of a licensing
8 requirement, or from any licensee regarding children or their
9 parents or other relatives shall be deemed confidential and
10 privileged communications, shall be properly safeguarded, and shall
11 not be accessible to anyone except as herein provided, unless upon
12 order of a court of competent jurisdiction. Provided, however, this
13 provision shall not prohibit the Department from providing a summary
14 of allegations and findings of an investigation involving a child
15 care facility that does not disclose identities but that permits
16 parents to evaluate the facility.

17 F. The Department shall promulgate rules to establish and
18 maintain a grievance process that shall include an anonymous
19 complaint system for reporting and investigating complaints or
20 grievances about employees of the Department who retaliate against a
21 child care facility or facility employee.

22 SECTION 2. This act shall become effective November 1, 2019.
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24 57-1-8359 EK 02/28/19